

**IN THE UNITED STATES DISTRICT COURT
FOR THE VIRGIN ISLANDS**

DIVISION OF ST. CROIX

FRANK V. POLLARA GROUP LLC)	
And FRANK C. POLLARA, individually,)	No. 9-60
)	
Plaintiffs,		
v.		

OCEAN VIEW INVESTMENT HOLDING,
LLC, f/k/a SOUTHGATE CROSSING
INVESTMENTS, LLC, OMEI GROUP LLC,
LUCY CHENG, and MATT DUBOIS,

Defendants.

MEMORANDUM ORDER

Before the Court is Plaintiffs' Motion in Limine. Plaintiffs move to exclude references to Mr. Pollara having committed bad acts or having arrests or convictions over ten years old. They also move to exclude any testimony from several witnesses who were not disclosed in Defendants' Rule 26 disclosures, or otherwise in discovery.

I have reviewed the parties' submissions. With regard to the six witnesses, two of the witnesses have been withdrawn, and I accept Defendants' representation that the others are offered solely for impeachment purposes only, were listed by Plaintiffs' disclosures, or were otherwise known to Plaintiffs. There is no suggestion of extenuating circumstances, such as bad faith or severe prejudice. Accordingly, the witnesses need not be excluded under applicable procedural standards.

With respect to the "bad acts" evidence, Defendants assume that Plaintiffs refer to Defendant Cheng's receipt of counsel's advice that she "be careful" of Mr. Pollara, as he had "some pending litigations." Defendants suggest that they intend to offer no other "bad act"

evidence, and Plaintiffs likewise point to no specific evidence of this kind. Thus, I proceed under the same assumption as Defendants, and assume that there are no other convictions, arrests, or uncharged bad acts that Defendants intend to offer into evidence. Accordingly, I agree that this evidence does not require exclusion under Fed. R. Evid. 404 or 403, for the reasons stated in Defendants' brief. At the appropriate time, if Plaintiffs so request, I will consider a limiting instruction to the jury.

AND NOW, this 10th day of May, 2013, it is hereby ORDERED, ADJUDGED, and DECREED that plaintiff's Motion in Limine [docket no. 345-1] is hereby DENIED.

BY THE COURT:

/s/Donetta W. Ambrose

Donetta W. Ambrose

Senior Judge, U.S. District Court